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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/829,667	04/22/2004	Arnold Thaler	074104.0121	6830
23640 7590 04/03/2009 BAKER BOTTS, LLP 910 LOUISIANA HOUSTON, TX 77002-4995				
EXAMINER KAMAL, SHAHID				
ART UNIT 3621		PAPER NUMBER		
NOTIFICATION DATE 04/03/2009		DELIVERY MODE ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

debbie.allen@bakerbotts.com

Office Action Summary

Application No.

10/829,667

Applicant(s)

THALER, ARNOLD

Examiner

SHAHID KAMAL

Art Unit

3621

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 December 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-52 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-52 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SG/US)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Acknowledgements

1. Claims 1-52 are now pending in this application.
2. Upon further review of the arguments provided by the applicant in the Pre-Appeal Brief filed on 02 December 2008, the FINAL Office action mailed on 04 November 2008 has been withdrawn. The prosecution of this application is hereby reopened.
3. The following is a **NON-FINAL** Office Action in response to the communication received on 02 December 2008.

Restrictions

4. Restriction to one of the following inventions is required under 35 U.S.C. §121:
 - I. Claims 1-20, 38-42, 48-50 drawn to a system and method for electronic transaction with verification, classified in class 705, subclass 75.
 - II. Claims 21-37, 43-47, and 51-52 drawn to a system and method for point of sale terminal, classified in class 705, subclass 16.

The inventions are distinct, each from the other because of the following reasons:

5. Inventions I and II are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct if they do not overlap in scope and are not

obvious variants, and if it is shown that at least one subcombination is separately usable. In the instant case, subcombination I, drawn to a system and method for electronic transaction with verification. Subcombination II, drawn to a system and method for point of sale terminal. These two subcombinations do not overlap in scope and are not obvious variants of each other. The first subcombination is related to electronic transaction with verification, while the second subcombination is related to a system and method for point of sale terminal. The two subcombinations do not overlap because they can exist independently of each other and they have separate structural elements. See MPEP § 806.05(d).

6. Because these inventions are independent or distinct for the reasons given above, because these inventions have acquired a separate status in the art as shown by their different classification and divergent subject matter, and because the search required for Group I is not required for Group II restriction for examination purposes as indicated is proper.

7. The examiner has required restriction between subcombinations usable together. Where applicant elects a subcombination and claims thereto are subsequently found allowable, any claim(s) depending from or otherwise requiring all the limitations of the allowable subcombination will be examined for patentability in accordance with 37 CFR 1.104. See MPEP § 821.04(a). Applicant is advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application.

8. Note: A telephone communication was not made because the requirement for this restriction is complex and the examiner knows from past experience that an election will not be made by telephone (see MPEP § 812.01).

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

10. Any inquiry concerning this communication or earlier communications from the patent examiner should be directed to Shahid Kamal whose telephone number is (571) 270-3272. The Patent examiner can normally be reached on Monday-Thursday (8:30am -7:00pm), Friday off.

11. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew J. Fischer can be reached on (571) 272-6779. The fax phone number for this origination where this application or proceeding is assigned is (571) 273-8300.

12. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published application may be obtained from either Private PAIR or Public PAIR.

13. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-directed.uspto.gov>.

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14. Should you have any questions on accessing to the Private PAIR system, contact the Electronic Business Center (EBC) at 1(866) 217-9197 (toll free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 1(800) 786-9199 (IN USA OR CANADA) or 1(571) 272-1000.

SK

March 28, 2009

/EVENS J. AUGUSTIN/

Primary Examiner, Art Unit 3621